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Walgreen, Co.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BELINDA SOLIS, an individual
Plaintiff,

vs.

WALGREEN CO., an Illinois
corporation
Defendant.

Case No. 5:11-CV-00605-EJD

**JOINT STIPULATION AND
[PROPOSED] ORDER TO TAKE
THE DEPOSITION OF
PLAINTIFF'S NON-RETAINED
EXPERT, DR. NEVILLE
UDWADIA, AND CONTINUING
DATES FOR PLAINTIFF'S
RETAINED EXPERT TO FILE
SUPPLEMENTAL RULE 26
REPORT, AND DEPOSITION OF
CRAIG ENOS**

Complaint Filed: February 7, 2011
Trial Date: August 6, 2013

TO THE HONORABLE COURT AND TO ALL COUNSEL OF RECORD:

IT IS STIPULATED AND AGREED by Plaintiff Belinda Solis (“Ms. Solis”) and Defendant Walgreen Co., (“Walgreens”) (collectively referred to as the “Parties”), by and through their respective attorneys of record, as follows:

WHEREAS, this matter originally was filed by Ms. Solis in the United States District Court for the Northern District of California on February 9, 2011.

WHEREAS, in the Court’s Case Management Order of November 29, 2011, this Court set a Fact Discovery Cutoff of July 27, 2012.

WHEREAS, in the Court’s Case Management Order of November 29, 2011, this Court set a Designation of Opening Experts with Reports on August 13, 2012.

WHEREAS, in the Court’s Case Management Order of November 29, 2011, this Court set a Designation of Rebuttal Experts with Reports on September 7, 2012.

WHEREAS, in the Court’s Case Management Order of November 29, 2011, this Court set an Expert Discovery Cutoff of September 10, 2012.

WHEREAS, the parties previously stipulated, and the Court ordered, that Ms. Solis’ retained expert Craig Enos, CPA, would have until November 1, 2012 to file a supplemental Rule 26 report to correct incomplete and erroneous information in his original report, and Walgreens would have until November 30, 2012 to take Mr. Enos’ deposition and to file and serve any rebuttal to Mr. Enos’ report.

WHEREAS, on November 1, 2012, Ms. Solis served Craig Enos’ supplemental Rule 26 report.

WHEREAS, at the Preliminary Pretrial Conference held on November 9, 2012, this case was assigned a trial date of August 6, 2013.

WHEREAS, Ms. Solis timely disclosed Dr. Neville Udwadia as a non-retained expert witness on August 13, 2012.

WHEREAS, Walgreens diligently attempted to take Dr. Udwadia’s deposition prior to the Expert Witness Discovery Cutoff and subpoenaed Dr. Udwadia for

1 deposition on September 10, 2012, a date that Dr. Udwadia originally stated he was
2 available.

3 WHEREAS, Dr. Udwadia originally requested an hourly fee of \$500 per hour
4 of deposition testimony, which Walgreens agreed to pay.

5 WHEREAS, after the deposition subpoena was served, Ms. Solis' counsel and
6 Dr. Udwadia's counsel notified Walgreens' counsel that they each were unavailable
7 on the date set for Dr. Udwadia's deposition; therefore, Walgreens was forced to
8 cancel Dr. Udwadia's deposition.

9 WHEREAS, Dr. Udwadia stated he would be available on September 12,
10 2012, but Ms. Solis refused to stipulate to Walgreens's taking of Dr. Udwadia's
11 deposition after the Expert Discovery Cutoff without a Court order and refused to
12 stipulate to modify the Court's scheduling order.

13 WHEREAS, Dr. Udwadia's attorney then demanded that if Walgreens
14 rescheduled the deposition, Walgreens must pay Dr. Udwadia for the cancelled
15 deposition at the rate of \$750 per hour and must pay \$750 per hour of actual
16 deposition testimony.

17 WHEREAS, the parties each stated their respective positions on these issues
18 in the Preliminary Pretrial Conference Statement filed October 22, 2012, and
19 Walgreens' counsel raised the issue at the Preliminary Pretrial Conference on
20 November 9, 2012.

21 WHEREAS, Ms. Solis' attorney Michael Bononi graciously agreed at the
22 Preliminary Pretrial Conference to stipulate to extend the Expert Discovery Cutoff
23 as to Dr. Udwadia's deposition. Mr. Bononi also indicated he would remain silent
24 as to any motion by Walgreens, if one becomes necessary, to set a reasonable fee for
25 Dr. Udwadia's deposition or trial testimony.

26 **NOW THEREFORE, IT IS HEREBY STIPULATED** by and between the
27 Parties, by and through their attorneys of record, that:

28 1. Walgreens will be permitted to take the deposition of Dr. Neville
Udwadia on or before June 30, 2013.

2. In the event Walgreens cannot come to an agreement with Dr. Udwardia regarding his demanded hourly fees for his testimony, Ms. Solis will not oppose any motion that Walgreens brings seeking the Court to set a reasonable hourly rate and/or reasonable terms regarding advance payment and refundability of Dr. Udwardia's fees.

3. Mr. Enos shall be permitted to prepare a second supplemental Rule 26 report to update calculations of lost wages through trial and beyond. Mr. Enos' report will be served on Walgreens on or before June 15, 2013.

4. Walgreens will be permitted to take the deposition of Craig Enos on or before July 1, 2013.

5. Walgreen will be permitted to designate a rebuttal expert with a Rule 26 report only as to those issues and opinion raised by Mr. Enos' original and supplemental reports on or before July 1, 2013.

Based on the foregoing, the Parties respectfully request this Court enter an Order consistent with this Stipulation.

Dated: November 19, 2012

BONONI LAW GROUP, LLP

By: /s/ Christy W. Granieri
Michael J. Bononi
Christy W. Granieri
Attorneys for Plaintiff
Belinda Solis


Dated: November 19, 2012

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By: /s/ Shauna N. Correia
Scott M. Plamondon
Shauna N. Correia
Attorneys for Defendant
Walgreen Co.

1 IT IS SO ORDERED.

2 Date: 11/21/2012

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5 Judge of the Northern District of California
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